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Attention: News Editors

BEP Recommends Lower Androscoggin Upgrade

Who: Friends of Merrymeeting Bay
What: Androscoggin River Water Classification Upgrade
Where: <http://cybrary.fomb.org/chemical.cfm>
<http://cybrary.fomb.org/pages/20200331%20AUP%20Exhibit%2003%20Andro Upgrade Fact Sheet-Exec Summary 3-31-20.pdf>
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At last week's Maine Board of Environmental Protection (BEP) meeting the Board finished their deliberations on proposed river reclassifications and made history by recommending the legislature upgrade the lower Androscoggin River water quality classification from the least stringent class C, to class B, a higher water quality classification. In doing so, the Board for the first time in three Triennial water classification reviews, refused to follow the Department of Environmental Protection (DEP) recommendation to maintain the lower quality rating, one that was and has been supported by all of the paper mills on the river as well as mill towns that are licensed to discharge pollutants into the river. Several municipalities and citizen groups opposed the DEP recommendation and supported the upgrade due in part to the economic and environmental benefits that can be achieved with cleaner water.

Riverine classifications are based primarily on ambient water quality as measured by dissolved oxygen content, E. coli bacteria, and the types and quantities of certain aquatic invertebrates found. The classifications increase from C (minimal water quality) to AA or very high in quality depending on the degree the actual water quality attains the various classification requirements. The new Class B recommended reach runs from Merrymeeting Bay to Worumbo dam in Lisbon Falls and was nominated by Friends of Merrymeeting Bay (FOMB). The upgrade proposal submitted by FOMB and Grow L+A had extensive support from river towns Brunswick, Topsham, Lewiston and Auburn as well as groups like Downeast Salmon Federation, Friends of Casco Bay, Trout Unlimited-Maine Council, Native Fish Coalition, Atlantic Salmon Federation, Lewiston Auburn Metropolitan Chamber of Commerce, Androscoggin Land Trust and Friends of Sebago Lake.

2022 is the Clean Water Act's 50th anniversary. The Act's passage was largely the result of Maine Senator Ed Muskie, and the then heavily polluted Androscoggin River was a poster child for the Act. FOMB, Grow L+A and other supporters hope the legislature will understand the symbolism in recognizing this example of the Act's success on the Androscoggin, as evidenced by recent, actual data and approving the recommended upgrade.

Peter Rubins of Grow L+A sees the BEP recommendation as a beginning and hopes to see the upgrade extend to Great Falls or Gulf Island Pond in the next few years. "The twin cities of Lewiston/Auburn have done a fantastic job during the last 10 years of virtually eliminating combined sewer overflows (CSO's) that occur when wastewater systems are overloaded from big rain events" Rubins said. "Their work and that of the Brunswick wastewater treatment plant has

made our success possible and all who appreciate clean water owe these plants and their employees a debt of gratitude” he added.

The reason for upgrading is to lock in improved water quality because, largely due to Maine’s anti-degradation policy stated in the classification statute, backsliding is very difficult and can only be approved in unusual circumstances and after in depth investigation and analysis by the EPA and state agencies. According to nearly 20 years of FOMB monitoring data, the most recent of which was collected this year, this section of the lower Androscoggin meets or surpasses class B standards virtually all of the time. Earlier attempts to upgrade had been thwarted, largely due to modeled results assuming certain conditions occurring due to upstream licensed pollutant discharges. Discharge licensing on the other hand falls under a different statute and is based on modeling and the requirement that dischargers meet the classification at critical flow conditions-7 day low flows that might occur every 10 years and all dischargers discharging at maximum licensed loads simultaneously. With most upstream licenses allowing discharges at 30 to 70% above actual discharge levels, this standard does not reflect what is actually happening on the river and there is no evidence that the modeled critical flow condition has ever occurred.

For years the DEP has conflated the two statutes said attorney Scott Sells who represented FOMB at the various BEP hearings, “In effect, the Department has for many years held classification upgrades here hostage to upstream pollutant dischargers, which was never the intent of the Clean Water Act or the plain language of Maine’s anti-degradation policy”, said Sells who also criticized the use of DEP modeling to prevent upgrades. “You cannot rely solely on modeled results for determining riverine classification when you have extensive actual data , the DEP model is still largely based on 2010 data which is now obsolete and is not calibrated to reflect real, actual conditions. Those actual conditions are a significant trigger under the classification statute.”

FOMB Chair Ed Friedman noted under the state’s anti-degradation policy stated in the classification statute that the Board had a non-discretionary duty to recommend an upgrade based on actual, ambient water conditions and was thankful they had done so. “We are delighted that improved water quality on this stretch of the Androscoggin is being recognized, it really benefits everyone.” He also acknowledged the many FOMB water monitoring volunteers. “Over nearly 20 years our dedicated volunteers working under EPA and DEP quality assurance plans have donated their skills and countless early morning hours to get us here”, Friedman said. “They are the true heroes deserving our thanks; hopefully the legislature when back in session will codify their efforts and those of the hard-working municipalities and sewer districts.”

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